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Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 March 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The UN Human Rights Council needs to put in place effective measures to evaluate and follow up on non-cooperation with Special Procedures

Introduction

General Assembly resolution 60/251 requires members of the Human Rights Council to fully cooperate with the Council, including its mechanisms and subsidiary bodies.[1] States that seek election to the Council almost routinely make pledges to cooperate with the Council and its mechanisms.

Amnesty International notes, however, that Special Procedures' reports and other information show that Council members often fail to cooperate with the Special Procedures, including in connection with country visits.

Country examples

Among the HRC members that have been very selective with regard to which Special Procedures' visit requests they accept are **India, Indonesia, Russia, Saudi Arabia** and **Venezuela.**

India holds the record for the longest pending request by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, first made over twenty years ago. This and 13 other requests remain outstanding despite India's standing invitation to Special Procedures.[2] **Indonesia** has 15 outstanding requests, among them are repeated requests from the Special Rapporteur on freedom of religion or belief, who first asked to visit in 1996, nearly 20 years ago.[3] One of **Russia**'s 15 outstanding visit requests is by the Working Group on Enforced or Involuntary Disappearances, which was first made in 2006 and has not been accepted yet despite repeated reminders.[4] **Saudi Arabia** has to date received only two Special Procedures' visits and has nine outstanding requests, some of which with repeated reminders, including one by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.[5] In almost 20 years, **Venezuela** has received only one Special Procedure visit: the one by the Special Rapporteur on and other cruel, inhuman or degrading treatment or punishment in 1996.[6] The government has yet to accept - despite repeated reminders, most recently on 3 February 2015 - a request by the Special Rapporteur on the situation of human rights defenders, which was first made in 2007.[7] Requests by eight other Special Procedures also

1 A/RES/60/251, operative paragraph 9.

2 Request made in 1993, with reminders in 2007 and 2010. Three of the other outstanding visit requests are shown as accepted but with no dates set. http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsF-M.aspx [last accessed on 16 March 2015].

3 Request made in 1996, with reminders in 1997, 2001, 2002, 2003, 2004, 2008, 2012 and 2014, http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsF-M.aspx [last accessed on 16 March 2015]. Two of the other outstanding visit requests are shown as accepted but with no dates set.

4 Annual report, A/HRC/27/49, paragraph 29 "The Working Group has requested a visit to the following countries, without having yet received a positive response: … the Russian Federation (2006, 2008, 2009, 2010, 2011, and 2012) …." and http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx [last accessed on 16 March 2015]. Two of the other outstanding visit requests are shown as accepted but with no dates set.

5 Request in 2004, reminders in 2008 and 2009. http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx [last accessed on 16 March 2015]. Two of the other outstanding visit requests are shown as accepted but with no dates set.

6 E/CN.4/1997/7/Add.3, 13 December 1996.

7 See A/HRC/28/63, paragraph 20 and http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx [last accessed on 16 March 2015] providing the following information: "Request in 2007, reminder in 2008 and 2010; Request on 3 Feb. 2015".

remain outstanding,[8] with the dates for the visit of the Special Rapporteur on the right to food, which was accepted in 2011, yet to be set.[9]

There are Human Rights Council members that accept visits, and have even issued a standing invitation, but then frustrate attempts to carry out some visits, either by taking long time to agree to dates, which can negatively affect Special Procedures' ability to plan their work, or by cancelling or postponing visits virtually at the last minute, which, *inter alia,* leads to waste of already limited Special Procedures' resources. In addition to the ones mentioned earlier, these include, for example, **Algeria** and **South Africa.**

In its Council election pledges, **Algeria** indicated that it had invited the "Working Group [on Enforced or Involuntary Disappearances] to conduct a working visit" to the country. [10] It invited the Working Group to visit the country in the second half of 2014, but did not accept different dates proposed by the Working Group or the format and purpose of the visit. No dates have been agreed yet.[11] A visit by the Special Rapporteur on violence against women, its causes and consequences to **South Africa** was recently postponed just three weeks before it was meant to start.[12]

There are also Human Rights Council members that accept and facilitate visits but restrict Special Procedures' freedom of inquiry, for example, by denying access to places they have sought to visit. Among them is the **United Kingdom,** which denied the Special Rapporteur on violence against women, its causes and consequences access to Yarl's Wood Immigration Removal Centre despite repeated requests.[13]

Cooperation with Special Procedures goes beyond accepting and facilitating visits. States must ensure that no reprisals take place against individuals who interact with special procedures in the context of country visits. Yet, there continue to be reports of the worrying occurrence of reprisals against individuals who have met with Special Procedures during their country visits, including in the context of visits to Council member states. The Special Rapporteur on freedom of religion or belief mentioned in his statement to this session of the Human Rights Council [14] that the privacy of his conversations was violated and that individuals who had met with him had suffered reprisals, including physical attacks, during his visit to **Viet Nam** in July 2014, or immediately afterward. There have also been allegations of intimidation

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8 http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx [last accessed on 16 March 2015]

9 http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx [last accessed on 16 March 2015] providing, *inter alia*, the following information: SR on right to food (Agreed in 2011). In 2014, the Special Rapporteur on the promotion and protection of the right to freedom of opinion listed Venezuela among the countries that had "never responded to requests for visits by the Special Rapporteur", A/HRC/26/30, paragraph 7.

10 "The Charter also addresses the issue of disappeared persons; cooperation on this issue has been established with the Working Group on Enforced or Involuntary Disappearances of the Human Rights Council. An invitation was sent to members of the Working Group to conduct a working visit to Algeria." A/68/153, 17 July 2013, paragraph 22.

11 Post-sessional document-104th session, A/HRC/WGEID/104/1, paragraph 10, available at: http://www.ohchr.org/Documents/Issues/Disappearances/A.HRC.WGEID.104.1_EN.doc, and http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsA-E.aspx [both links last accessed on 16 March 2015] providing the following information: "WG on enforced or involuntary disappearances (Agreed).".

12 http://www.ohchr.org/EN/HRBodies/SP/Pages/Forthcomingcountryvisits.aspx [last accessed 16 march 2015], which includes the following information "Special Rapporteur on violence against women, its causes and consequences - Now postponed - South Africa - 25 February to 7 March 2015".

13 "During my mission I visited a number of places of detention including the Hydebank Prison in Northern Ireland, Cornton Vale Prison in Scotland and Holloway Prison for Women in London. I regret that, despite my repeated requests, a visit to Yarl's Wood immigration detention centre was not facilitated by the Government, and that my access to the Centre was denied, when I tried to visit it independently. Due to receiving information from the third sector, I was keen to speak to detainees in this facility to objectively seek information on violations being experienced". See more at: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14514&LangID=E#sthash.vnDdDJYR.dpuf [last accessed on 16 March 2015]

14 Statement by Heiner Bielefeldt, Special Rapporteur on Freedom of Religion or Belief, to the 28th session of the UN Human Rights Council, 10 March 2015, available on the HRC extranet.

and reprisals against a human rights defender who met with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment during his visit to **Mexico** in April-May 2014.[15]

Recommendations

These examples are by no means exhaustive. The Human Rights Council should receive this kind of information in a consolidated manner (i.e. a report) to be reviewed and evaluated by the Council on a regular (annual) basis through a dedicated debate devoted to reviewing States' cooperation with the Special Procedures. The review should address, *inter alia,* the status of visit requests, including accepted requests where there have been long delays in setting dates, and full adherence to the guarantees set out in the Terms of Reference for Fact-Finding Missions.[16] The Council should put in place measures to enable the Special Procedures to carry out effectively their mandates with regard country visits, including by supporting full respect of their Terms of Reference for Fact-Finding Missions and protection against reprisals.

The Council should also evaluate the implementation of pledges and commitments to cooperate with the Special Procedures made in connection with campaigns for election to the Human Rights Council. The Council must be prepared to hold accountable states demonstrating persistent non-cooperation with the Special Procedures and other Council mechanisms.[17]

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15 MEX 9/2014, Communications report of the Special Procedures, A/HRC/28/85, 19 February 2015.

16 Appendix V, E/CN.4/1998/45.

17 See also Amnesty International, *Making it work, the reviews of the UN Human Rights Council*, 2011, Index: IOR 41/001/2011, January 2011, available at https://www.amnesty.org/en/documents/IOR41/001/2011/en/ [last accessed on 16 March 2015].